



Filed: 3/10/2005

09400HB2412ham001

LRB094 08327 RLC 42992 a

1 AMENDMENT TO HOUSE BILL 2412

2 AMENDMENT NO. _____. Amend House Bill 2412 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 31A-1.1 and 31A-1.2 as follows:

6 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

7 Sec. 31A-1.1. Bringing Contraband into a Penal
8 Institution; Possessing Contraband in a Penal Institution.

9 (a) A person commits the offense of bringing contraband
10 into a penal institution when he knowingly and without
11 authority of any person designated or authorized to grant such
12 authority (1) brings an item of contraband into a penal
13 institution or (2) causes another to bring an item of
14 contraband into a penal institution or (3) places an item of
15 contraband in such proximity to a penal institution as to give
16 an inmate access to the contraband.

17 (b) A person commits the offense of possessing contraband
18 in a penal institution when he possesses contraband in a penal
19 institution, regardless of the intent with which he possesses
20 it.

21 (c) For the purposes of this Section, the words and phrases
22 listed below shall be defined as follows:

23 (1) "Penal institution" for the purposes of items of
24 contraband specified in clauses (i) through (xi) of

1 subsection (c)(2) means any penitentiary, State farm,
2 reformatory, prison, jail, house of correction, police
3 detention area, half-way house or other institution or
4 place for the incarceration or custody of persons under
5 sentence for offenses awaiting trial or sentence for
6 offenses, under arrest for an offense, a violation of
7 probation, a violation of parole, or a violation of
8 mandatory supervised release, or awaiting a bail setting
9 hearing or preliminary hearing; provided that where the
10 place for incarceration or custody is housed within another
11 public building this Act shall not apply to that part of
12 such building unrelated to the incarceration or custody of
13 persons. "Penal institution" for purposes of items of
14 contraband specified in paragraph (xii) of subsection
15 (c)(2) means an institution or facility of the Illinois
16 Department of Corrections.

17 (2) "Item of contraband" means any of the following:

18 (i) "Alcoholic liquor" as such term is defined in
19 Section 1-3.05 of The Liquor Control Act of 1934 as
20 such Act may be now or hereafter amended.

21 (ii) "Cannabis" as such term is defined in
22 subsection (a) of Section 3 of the "Cannabis Control
23 Act", approved August 16, 1971, as now or hereafter
24 amended.

25 (iii) "Controlled substance" as such term is
26 defined in the "Illinois Controlled Substances Act",
27 approved August 16, 1971, as now or hereafter amended.

28 (iv) "Hypodermic syringe" or hypodermic needle, or
29 any instrument adapted for use of controlled
30 substances or cannabis by subcutaneous injection.

31 (v) "Weapon" means any knife, dagger, dirk, billy,
32 razor, stiletto, broken bottle, or other piece of glass
33 which could be used as a dangerous weapon. Such term
34 includes any of the devices or implements designated in

1 subsections (a) (1), (a) (3) and (a) (6) of Section 24-1
2 of this Act, or any other dangerous weapon or
3 instrument of like character.

4 (vi) "Firearm" means any device, by whatever name
5 known, which is designed to expel a projectile or
6 projectiles by the action of an explosion, expansion of
7 gas or escape of gas, including but not limited to:

8 (A) any pneumatic gun, spring gun, or B-B gun
9 which expels a single globular projectile not
10 exceeding .18 inch in diameter, or;

11 (B) any device used exclusively for signaling
12 or safety and required as recommended by the United
13 States Coast Guard or the Interstate Commerce
14 Commission; or

15 (C) any device used exclusively for the firing
16 of stud cartridges, explosive rivets or industrial
17 ammunition; or

18 (D) any device which is powered by electrical
19 charging units, such as batteries, and which fires
20 one or several barbs attached to a length of wire
21 and which, upon hitting a human, can send out
22 current capable of disrupting the person's nervous
23 system in such a manner as to render him incapable
24 of normal functioning, commonly referred to as a
25 stun gun or taser.

26 (vii) "Firearm ammunition" means any
27 self-contained cartridge or shotgun shell, by whatever
28 name known, which is designed to be used or adaptable
29 to use in a firearm, including but not limited to:

30 (A) any ammunition exclusively designed for
31 use with a device used exclusively for signaling or
32 safety and required or recommended by the United
33 States Coast Guard or the Interstate Commerce
34 Commission; or

1 (B) any ammunition designed exclusively for
2 use with a stud or rivet driver or other similar
3 industrial ammunition.

4 (viii) "Explosive" means, but is not limited to,
5 bomb, bombshell, grenade, bottle or other container
6 containing an explosive substance of over one-quarter
7 ounce for like purposes such as black powder bombs and
8 Molotov cocktails or artillery projectiles.

9 (ix) "Tool to defeat security mechanisms" means,
10 but is not limited to, handcuff or security restraint
11 key, tool designed to pick locks, or device or
12 instrument capable of unlocking handcuff or security
13 restraints, doors to cells, rooms, gates or other areas
14 of the penal institution.

15 (x) "Cutting tool" means, but is not limited to,
16 hacksaw blade, wirecutter, or device, instrument or
17 file capable of cutting through metal.

18 (xi) "Electronic contraband" means, but is not
19 limited to, any electronic, video recording device,
20 computer, or cellular communications equipment,
21 including, but not limited to, cellular telephones,
22 cellular telephone batteries, videotape recorders,
23 pagers, computers, and computer peripheral equipment
24 brought into or possessed in a penal institution
25 without the written authorization of the Chief
26 Administrative Officer.

27 (xii) With respect to institutions and facilities
28 of the Illinois Department of Corrections only, video
29 games.

30 (3) "Video game" means an object or device that stores
31 recorded data or instructions, receives data or
32 instructions generated by a person who uses it, and, by
33 processing the data or instructions, creates an
34 interactive game capable of being played, viewed, or

1 experienced on or through a computer, gaming system,
2 console, or other technology.

3 (c-5) Bringing a video game into an Illinois Department of
4 Corrections institution or facility is a Class A misdemeanor.
5 Possessing a video game in an Illinois Department of
6 Corrections institution or facility is a Class A misdemeanor.

7 (d) Bringing alcoholic liquor into a penal institution is a
8 Class 4 felony. Possessing alcoholic liquor in a penal
9 institution is a Class 4 felony.

10 (e) Bringing cannabis into a penal institution is a Class 3
11 felony. Possessing cannabis in a penal institution is a Class 3
12 felony.

13 (f) Bringing any amount of a controlled substance
14 classified in Schedules III, IV or V of Article II of the
15 Controlled Substance Act into a penal institution is a Class 2
16 felony. Possessing any amount of a controlled substance
17 classified in Schedule III, IV, or V of Article II of the
18 Controlled Substance Act in a penal institution is a Class 2
19 felony.

20 (g) Bringing any amount of a controlled substance
21 classified in Schedules I or II of Article II of the Controlled
22 Substance Act into a penal institution is a Class 1 felony.
23 Possessing any amount of a controlled substance classified in
24 Schedules I or II of Article II of the Controlled Substance Act
25 in a penal institution is a Class 1 felony.

26 (h) Bringing an item of contraband listed in paragraph (iv)
27 of subsection (c)(2) into a penal institution is a Class 1
28 felony. Possessing an item of contraband listed in paragraph
29 (iv) of subsection (c)(2) in a penal institution is a Class 1
30 felony.

31 (i) Bringing an item of contraband listed in paragraph (v),
32 (ix), (x), or (xi) of subsection (c)(2) into a penal
33 institution is a Class 1 felony. Possessing an item of
34 contraband listed in paragraph (v), (ix), (x), or (xi) of

1 subsection (c)(2) in a penal institution is a Class 1 felony.

2 (j) Bringing an item of contraband listed in paragraphs
3 (vi), (vii) or (viii) of subsection (c)(2) in a penal
4 institution is a Class X felony. Possessing an item of
5 contraband listed in paragraphs (vi), (vii), or (viii) of
6 subsection (c)(2) in a penal institution is a Class X felony.

7 (k) It shall be an affirmative defense to subsection (b)
8 hereof, that such possession was specifically authorized by
9 rule, regulation, or directive of the governing authority of
10 the penal institution or order issued pursuant thereto.

11 (l) It shall be an affirmative defense to subsection (a)(1)
12 and subsection (b) hereof that the person bringing into or
13 possessing contraband in a penal institution had been arrested,
14 and that that person possessed such contraband at the time of
15 his arrest, and that such contraband was brought into or
16 possessed in the penal institution by that person as a direct
17 and immediate result of his arrest.

18 (l-5) The Director of Corrections or chief administrative
19 officer of a Department of Corrections institution or facility
20 may not authorize the bringing into or possession of a video
21 game in a Department of Corrections institution or facility.

22 (m) Items confiscated may be retained for use by the
23 Department of Corrections or disposed of as deemed appropriate
24 by the Chief Administrative Officer in accordance with
25 Department rules or disposed of as required by law.

26 (Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

27 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

28 Sec. 31A-1.2. Unauthorized bringing of contraband into a
29 penal institution by an employee; unauthorized possessing of
30 contraband in a penal institution by an employee; unauthorized
31 delivery of contraband in a penal institution by an employee.

32 (a) A person commits the offense of unauthorized bringing
33 of contraband into a penal institution by an employee when a

1 person who is an employee knowingly and without authority or
2 any person designated or authorized to grant such authority:

3 (1) brings or attempts to bring an item of contraband
4 listed in paragraphs (i) through (iv) or (xii) of
5 subsection (d)(4) into a penal institution, or

6 (2) causes or permits another to bring an item of
7 contraband listed in paragraphs (i) through (iv) or (xii)
8 of subsection (d)(4) into a penal institution.

9 (b) A person commits the offense of unauthorized possession
10 of contraband in a penal institution by an employee when a
11 person who is an employee knowingly and without authority of
12 any person designated or authorized to grant such authority
13 possesses contraband listed in paragraphs (i) through (iv) or
14 (xii) of subsection (d)(4) in a penal institution, regardless
15 of the intent with which he possesses it.

16 (c) A person commits the offense of unauthorized delivery
17 of contraband in a penal institution by an employee when a
18 person who is an employee knowingly and without authority of
19 any person designated or authorized to grant such authority:

20 (1) delivers or possesses with intent to deliver an
21 item of contraband to any inmate of a penal institution, or

22 (2) conspires to deliver or solicits the delivery of an
23 item of contraband to any inmate of a penal institution, or

24 (3) causes or permits the delivery of an item of
25 contraband to any inmate of a penal institution, or

26 (4) permits another person to attempt to deliver an
27 item of contraband to any inmate of a penal institution.

28 (d) For purpose of this Section, the words and phrases
29 listed below shall be defined as follows:

30 (1) "Penal Institution" shall have the meaning
31 ascribed to it in subsection (c)(1) of Section 31A-1.1 of
32 this Code;

33 (2) "Employee" means any elected or appointed officer,
34 trustee or employee of a penal institution or of the

1 governing authority of the penal institution, or any person
2 who performs services for the penal institution pursuant to
3 contract with the penal institution or its governing
4 authority.

5 (3) "Deliver" or "delivery" means the actual,
6 constructive or attempted transfer of possession of an item
7 of contraband, with or without consideration, whether or
8 not there is an agency relationship;

9 (4) "Item of contraband" means any of the following:

10 (i) "Alcoholic liquor" as such term is defined in
11 Section 1-3.05 of the Liquor Control Act of 1934.

12 (ii) "Cannabis" as such term is defined in
13 subsection (a) of Section 3 of the Cannabis Control
14 Act.

15 (iii) "Controlled substance" as such term is
16 defined in the Illinois Controlled Substances Act.

17 (iv) "Hypodermic syringe" or hypodermic needle, or
18 any instrument adapted for use of controlled
19 substances or cannabis by subcutaneous injection.

20 (v) "Weapon" means any knife, dagger, dirk, billy,
21 razor, stiletto, broken bottle, or other piece of glass
22 which could be used as a dangerous weapon. Such term
23 includes any of the devices or implements designated in
24 subsections (a) (1), (a) (3) and (a) (6) of Section 24-1
25 of this Act, or any other dangerous weapon or
26 instrument of like character.

27 (vi) "Firearm" means any device, by whatever name
28 known, which is designed to expel a projectile or
29 projectiles by the action of an explosion, expansion of
30 gas or escape of gas, including but not limited to:

31 (A) any pneumatic gun, spring gun, or B-B gun
32 which expels a single globular projectile not
33 exceeding .18 inch in diameter; or

34 (B) any device used exclusively for signaling

1 or safety and required or recommended by the United
2 States Coast Guard or the Interstate Commerce
3 Commission; or

4 (C) any device used exclusively for the firing
5 of stud cartridges, explosive rivets or industrial
6 ammunition; or

7 (D) any device which is powered by electrical
8 charging units, such as batteries, and which fires
9 one or several barbs attached to a length of wire
10 and which, upon hitting a human, can send out
11 current capable of disrupting the person's nervous
12 system in such a manner as to render him incapable
13 of normal functioning, commonly referred to as a
14 stun gun or taser.

15 (vii) "Firearm ammunition" means any
16 self-contained cartridge or shotgun shell, by whatever
17 name known, which is designed to be used or adaptable
18 to use in a firearm, including but not limited to:

19 (A) any ammunition exclusively designed for
20 use with a device used exclusively for signaling or
21 safety and required or recommended by the United
22 States Coast Guard or the Interstate Commerce
23 Commission; or

24 (B) any ammunition designed exclusively for
25 use with a stud or rivet driver or other similar
26 industrial ammunition.

27 (viii) "Explosive" means, but is not limited to,
28 bomb, bombshell, grenade, bottle or other container
29 containing an explosive substance of over one-quarter
30 ounce for like purposes such as black powder bombs and
31 Molotov cocktails or artillery projectiles.

32 (ix) "Tool to defeat security mechanisms" means,
33 but is not limited to, handcuff or security restraint
34 key, tool designed to pick locks, or device or

1 instrument capable of unlocking handcuff or security
2 restraints, doors to cells, rooms, gates or other areas
3 of the penal institution.

4 (x) "Cutting tool" means, but is not limited to,
5 hacksaw blade, wirecutter, or device, instrument or
6 file capable of cutting through metal.

7 (xi) "Electronic contraband" means, but is not
8 limited to, any electronic, video recording device,
9 computer, or cellular communications equipment,
10 including, but not limited to, cellular telephones,
11 cellular telephone batteries, videotape recorders,
12 pagers, computers, and computer peripheral equipment.

13 (xii) With respect to institutions and facilities
14 of the Illinois Department of Corrections only, video
15 games.

16 (5) "Video game" has the meaning ascribed to it in
17 Section 31A-1.1 of this Code.

18 (e) A violation of paragraph (a) or (b) of this Section
19 involving a video game is a Class A misdemeanor. A violation of
20 paragraphs (a) or (b) of this Section involving alcohol is a
21 Class 4 felony. A violation of paragraph (a) or (b) of this
22 Section involving cannabis is a Class 2 felony. A violation of
23 paragraph (a) or (b) involving any amount of a controlled
24 substance classified in Schedules III, IV or V of Article II of
25 the Illinois Controlled Substances Act is a Class 1 felony. A
26 violation of paragraph (a) or (b) of this Section involving any
27 amount of a controlled substance classified in Schedules I or
28 II of Article II of the Illinois Controlled Substances Act is a
29 Class X felony. A violation of paragraph (a) or (b) involving
30 an item of contraband listed in paragraph (iv) of subsection
31 (d) (4) is a Class X felony. A violation of paragraph (a) or (b)
32 involving an item of contraband listed in paragraph (v) or (xi)
33 of subsection (d) (4) is a Class 1 felony. A violation of
34 paragraph (a) or (b) involving an item of contraband listed in

1 paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a
2 Class X felony.

3 (f) A violation of paragraph (c) of this Section involving
4 a video game is a Class A misdemeanor. A violation of paragraph
5 (c) of this Section involving alcoholic liquor is a Class 3
6 felony. A violation of paragraph (c) involving cannabis is a
7 Class 1 felony. A violation of paragraph (c) involving any
8 amount of a controlled substance classified in Schedules III,
9 IV or V of Article II of the Illinois Controlled Substances Act
10 is a Class X felony. A violation of paragraph (c) involving any
11 amount of a controlled substance classified in Schedules I or
12 II of Article II of the Illinois Controlled Substances Act is a
13 Class X felony for which the minimum term of imprisonment shall
14 be 8 years. A violation of paragraph (c) involving an item of
15 contraband listed in paragraph (iv) of subsection (d)(4) is a
16 Class X felony for which the minimum term of imprisonment shall
17 be 8 years. A violation of paragraph (c) involving an item of
18 contraband listed in paragraph (v), (ix) or (x) of subsection
19 (d)(4) is a Class X felony for which the minimum term of
20 imprisonment shall be 10 years. A violation of paragraph (c)
21 involving an item of contraband listed in paragraphs (vi),
22 (vii) or (viii) of subsection (d)(4) is a Class X felony for
23 which the minimum term of imprisonment shall be 12 years.

24 (f-5) The Director of Corrections or chief administrative
25 officer of a Department of Corrections institution or facility
26 may not authorize the bringing into or possession of a video
27 game by an employee in a Department of Corrections institution
28 or facility.

29 (g) Items confiscated may be retained for use by the
30 Department of Corrections or disposed of as deemed appropriate
31 by the Chief Administrative Officer in accordance with
32 Department rules or disposed of as required by law.

33 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)".